

# THE NEWS OF NORFOLK ON PAGES TWO AND THREE.

## WEATHER REPORT.

Washington, Oct. 6.—8 p. m.—Weather forecast for Saturday and Sunday: Virginia and North Carolina—Fair Saturday and Sunday; brisk North-west winds, diminishing in force Saturday.

## Norfolk & Vicinity.

WEATHER FORECAST FOR TO-DAY.  
Clearing to fair weather; high North-west winds.

## TEMPERATURE, RAINFALL AND HUMIDITY.

	October 6, 1899.
Maximum temperature	63
Minimum temperature	53
Normal temperature	61
Departure from normal	+2
Departure from normal since January 1st	-16
Rainfall in past 24 hours	.37
Rainfall since first of month	.39
Mean relative humidity	90

## CALENDAR.

Sun rises, 6:05 a. m.; sets, 5:39 p. m.

## TIDES.

Norfolk—High water, 10:19 a. m. and 10:31 p. m.; low water, 3:56 a. m. and 4:41 p. m.  
Old Point—High water, 9:58 a. m. and 10:10 p. m.; low water, 3:35 a. m. and 4:20 p. m.

## Monuments and Gravesites.

The selection of a suitable monument in marble or granite can be readily made from our stock, for we carry the largest assortment of finished designs in the South.  
**THE COOPER MARBLE WORKS**  
Established 50 Years.  
159-163 Han' St., Norfolk, Va.

## AMUSEMENTS.

### HUDITORIUM THEATRE!

JAS. M. BARTON, Prop.

### Only Vaudeville House

Playing High Class Acts.

## STIEFF PIANOS

For nearly sixty years have been before the public, and have attained worldwide reputation for great durability, workmanship and artistic finish. Sold direct from factory. Write for our beautifully illustrated catalogue and easy plan.

CHAS. M. STIEFF  
Monticello, Granby street, Norfolk, Va.

### BENJ. L. COZIER,

Livery, Boarding and

Transient Stables,  
61, 63, 65 Cove Street.

S. S. PHONE, 606.

Everything new and up-to-date.

## CLERY'S PATENT IRON

Quickly relieves and permanently cures all Nervous Troubles, Headache, Dizziness, Female Complaints, Stomach and all types of disease originating in, or aggravated by, a low and weakened condition of the Nervous System. Pleasant, safe, and effective.  
\$1.00 PER BOTTLE. ALL DRUGGISTS.

### BRAMBLETON WARD

A special meeting of the Local Board of Improvement was held last night to hear the report of the School Committee. Chairman Gale reported that he had secured an option on a lot in rear of School No. 2, fronting fifty feet on Church street and running back a distance of 140 feet.

On motion, the chairman of the committee was authorized to close the contract at the price offered.

The chairman reported that he had ordered certain repairs to the fences and stores in the school buildings. His action was approved by the board.

The board decided to retain Mr. Putnam as assistant Sanitary and Street Inspector at his present salary. Adjourned.

### BREVITIES.

Prof. A. H. Garrett, formerly of New York, but now of Norfolk Conservatory of Music, will sing at Park Avenue Baptist Church Sunday at Trinity M. E. Church.

Mr. and Mrs. A. Moses, of Windsor avenue, have returned from a very pleasant visit to New York City.

Revival services have been in progress at Spurgeon Memorial Baptist Church all this week. Rev. Dr. J. P. Barrett, of the Christian Memorial Temple, will preach to-night. Services at 7:30 p. m.

Dr. J. J. McEvoy and family, of Augusta, Ga., have moved here and are residing at No. 125 North Park avenue.

Mr. J. R. Rano and family, formerly of Richmond, have taken up their residence at 319 East Willoughby avenue.

Mr. R. H. Marsden, of East Brambleton, has returned from Baltimore, where he spent several days with relatives.

Little Marie Dalby is reported ill at the home of her grandfather, Mr. O. J. Spaul, No. 313 East Brambleton avenue.

The Episcopal Church of Trinity M. E. Church will hold devotional exercises at 6:30 o'clock Sunday evening. Revival services will follow at 7:45 p. m.

### ATLANTIC CITY WARD

The Junior Epworth League of Le-Ries Memorial Methodist Church will hold its regular devotional meeting at 3 o'clock to-morrow afternoon. The program of exercises will be varied and interesting.

The Junior Society of Christian Endeavor of Colley Memorial Presbyterian Church will hold its regular meeting at 4 o'clock Sunday afternoon. An attractive program has been arranged for the occasion.

At the meeting next week of the Atlantic City W. C. T. U. some interesting reports will be heard from the State Convention now in session at Alexandria, Va.

Miss Della Wilshen continues very ill at the home of her parents, corner of Colley and Central avenues.

## COURT DECISIONS.

Notes of Cases Recently Decided, Which are of Interest to Our People.

DIGESTED BY W. B. MARTIN.  
(Exclusively for Virginian-Pilot.)

### BARNES V. MORRISON.

Supreme Court of Appeals of Virginia. September 14, 1899.

A CONTRACT BETWEEN PARTIES TO BUY PROPERTY TO BE DIVIDED EQUALLY BETWEEN THEM IS NOT A PARTNERSHIP CONTRACT; EITHER CAN SUE AT LAW FOR ITS BREACH.

WHEN ONE PARTY TO A CONTRACT ABSOLUTELY REPUDIATES IT, THE OTHER PARTY IS EXCUSED FROM MAKING A TENDER OF PERFORMANCE.

A SECRET COMBINATION BETWEEN PERSONS TO REFRAIN FROM BIDDING ON PROPERTY AT AUCTION IN ORDER TO PREVENT COMPETITION IS ILLEGAL; BUT PERSONS MAY AGREE THAT ONE SHALL BUY THE PROPERTY FOR ALL.

DAMAGES ALLOWED HERE FOR THE BREACH OF CONTRACT BY ONE PARTY TO BUY WHISKEY AT AUCTION FOR THE JOINT BENEFIT OF THAT PARTY AND ANOTHER.

WHERE THERE HAVE BEEN TWO TRIALS IN THE LOWER COURT THE SUPREME COURT LOOKS FIRST AT THE EVIDENCE ON THE FIRST TRIAL.

This was an action brought for the breach of an agreement made by the defendant to buy for the joint benefit of himself and the plaintiff certain whiskey which was sold at auction by an officer of the government. The defendant bought the whiskey and then refused to give the plaintiff any part thereof, although he offered to pay defendant one-half of the purchase price. There were two trials in the lower court. On the first trial the jury found for the plaintiff, but the court set aside the verdict. On the second trial there was a verdict and judgment for the defendant and plaintiff agreed.

The court says: By section 3454, of the Code as amended, it is provided that where there have been two trials in the lower court, the evidence and proceedings on the first trial, and if it discovers that the court erred in setting aside the verdict on that trial, it shall set aside and annul all subsequent proceedings and enter judgment on the first trial.

The defendant's counsel insist that the trial court may have set aside the verdict on one of several grounds, either of which was sufficient to justify setting aside the verdict. One of the grounds is that the plaintiff failed to show that he had conducted the trial, and if it discovers that the court erred in setting aside the verdict on that trial, it shall set aside and annul all subsequent proceedings and enter judgment on the first trial.

The contract sued on was not an agreement between the parties as partners or joint tenants. It was a contract between them as individuals for the purchase of property to be divided equally between them when purchased, and for its violation by either the other had the right to sue at law to recover damages for its breach. Another ground relied on is that the plaintiff failed to show that he had conducted the trial, and if it discovers that the court erred in setting aside the verdict on that trial, it shall set aside and annul all subsequent proceedings and enter judgment on the first trial.

The remaining ground relied on is that the agreement was illegal and void because its purpose and necessary effect was to suppress bidding and prevent fair competition when the whiskey was sold. If such was the purpose or necessary effect of the agreement, the contract properly set aside the verdict, for where property is to be sold at auction, and especially where the sale is made by order of a court or is made in course of governmental administration, a secret combination and agreement among persons interested in bidding whereby they stipulate to refrain from bidding, in order to prevent competition and to lower the selling price of the property, is illegal, according to the uniform decision of this country. But it is not necessary to consider this ground, for the court has already decided that the contract was illegal and void.

We are of opinion, therefore, that the trial court erred in setting aside the verdict on the first trial, and that all subsequent proceedings in the case be reversed.

### AMUSEMENTS.

#### "TWO JOLLY ROVERS."

The performance was both jolly and rollicking—a very considerable amount of laughable nonsense, good singing and dancing and a general medley of almost everything admissible in a musical farce comedy (and some things which might have been left out without detracting) combined to afford those who witnessed the "Two Jolly Rovers" at the Academy of Music last night a very enjoyable evening. Judging from the enthusiastic applause which followed the many very excellent numbers embraced in the program.

The "Two Jolly Rovers" has no plot. It is simply an excuse for the introduction of several clever people in their specialties, including Messrs. Leonard and Wade, Miss King, Miss Gilly and Miss Burdette. A male quartette in songs, parodies and funnysims received encore after encore; and a number of very pretty girls, with good voices and graceful actions, were given ample opportunity to display their many pretty costumes as the play rushed on.

#### Funds for the Schools.

Mr. R. A. Doble, Superintendent of Public Schools, received yesterday from the State Auditor at Richmond a draft for \$11,782.21, the amount appropriated to the Norfolk schools under the first apportionment of State funds for public education during the current season. This amount will be supplemented later by \$2,000.

### CASTORIA

For Infants and Children.

The Kind You Have Always Bought

Bears the Signature of *Dr. J. C. Williams*

#### Yacht Race Returns.

Bulletins from the yacht race at New York will be received to-day by Nussbaum's from the New York World, and these will be displayed in front of their store.

Bulletins will also be received by the Virginian-Pilot and displayed on the bulletin-boards in Norfolk and Portsmouth.

#### Distressing Stomach Disease.

Permanently cured by the masterly power of South American Sarsaparilla. Because this great remedy can cure them all. It is a cure for the whole world of stomach weakness and indigestion. The relief it brings is marvelous and surprising. It makes no failure, never disappoints. No matter how long you have suffered, your cure is certain under the use of this great health-giving force. Pleasant and always safe. Sold by all druggists.

Good for Itching Backs

must be set aside and annulled, and judgment entered upon the verdict. Reversed.

### LONGMAN V. BRADFORD.

Supreme Court of Georgia. July 28, 1899.

IF AN ATTORNEY AT LAW, CONTRARY TO INSTRUCTIONS, CAUSES HIS CLIENT TO BE MADE A PARTY TO A SUIT, ANY JUDGMENT OBTAINED THEREIN MAY BE SET ASIDE BY PROPER PROCEEDINGS.

The case appears from the opinion of the court.

The facts of this case need not be stated. It turns upon the proposition announced in the headline. Undoubtedly, an attorney at law employed generally to represent a party in a particular matter has authority to bind him by what he may lawfully do for the purpose of effectuating the object for which he was employed. Section 4417 of the Civil Code confers upon attorneys at law "authority to bind their clients in any action or proceeding, by any agreement in relation thereto, which is not in writing, and in signing judgments, entering appeals," etc. But this section must be understood as applying to the conduct of attorneys in actions or proceedings which they are either expressly or impliedly authorized to bring or defend.

It cannot properly be construed to authorize an attorney to bind his client, and in signing judgments, entering appeals," etc. But this section must be understood as applying to the conduct of attorneys in actions or proceedings which they are either expressly or impliedly authorized to bring or defend.

The officers of the company are: D. Lowenberg, Norfolk, President; R. W. Brooks, Portsmouth, Vice President and General Manager; William A. Wrenn, Norfolk, Secretary and Treasurer. The above with Jacob Hecht, Barton Myers and Walter H. Doyle, of Norfolk, compose the Board of Directors.

Through her attorney, Hugh G. Miller, Mrs. Gantle Culysher entered suit in the Court of Law and Chancery for divorce yesterday against her husband, Joseph B. Culysher. The ground alleged is desertion. The couple were married in Chowan, N. C., in 1898. Culysher is a ferry boat man.

#### PROPERTY TRANSFERS.

The following bargain and sale deeds were admitted to record in the Clerk's office yesterday:

J. D. Lowenberg, trustee, to Peres Bonney, lot fronting 25 feet on the north side of Highland avenue, Brambleton; \$800.

J. W. Keeling, attorney in fact, to J. W. Butts, lot fronting 25 feet on the south side of Olney Road, Ribble Place; \$700.

W. W. Wilson to Mrs. Joseph S. Newcomer, two lots commencing at the southeastern intersection of Marshall avenue and Bond street, Brambleton; \$1,300.

J. W. Keeling, attorney in fact, to J. W. Butts, lot fronting 25 feet on the south side of Olney Road, Ribble Place; \$700.

Sam Fitzgerald, Henry Capps, Robert Ford and Jim Thomas, alias Smith, all small white boys, were arraigned in the Police Court yesterday charged with stealing wire from the Port Norfolk Railway Company. Thomas is thought to have been an inmate of the Laurel Reformatory, and to have escaped from that institution before his time was up. The authorities were communicated with, and the lad will be held to await developments. Capps and Fitzgerald were held for the county authorities.

#### GRAND LARCENY.

Justice Tomlin sent C. C. Ebbsworth, a young white man, to the grand jury yesterday morning upon the charge of grand larceny. The prisoner is alleged to have embezzled goods to the amount of \$50 from Vickery & Co. He is also charged with embezzlement by the White Hardware Company, and is yet to be tried on that count.

#### CONDITION OF TRADE.

EXPANSION REFLECTED IN VOLUME OF BUSINESS.

(By Telegraph to Virginian-Pilot.) New York, Oct. 6.—R. G. Dun & Co.'s weekly review of trade will say to-morrow:

The grand demonstration in honor of Admiral Dewey effectually stopped business of most kinds for two days at the chief city of the country, and yet the remaining transactions of the week would have excited wonder a year ago. At New York, where the interruption was greatest, payments through clearing-houses exceeded \$1,059,000,000 in four business days, a record never before approached, and outside New York the volume of that kind of business which does not depend on exchanges. It has been a week of remarkable monetary changes here and elsewhere. The Bank of England raising its rate 1 per cent, before and 1/2 per cent, more after its weekly statement, from 3 1/2 to 5 per cent, with the hope that the outgo to New York might be checked, but the Bank of Germany lost also and raised its rate to 6 per cent. While high rates were paid here for money required in speculation, no stringency embarrassed any branch of legitimate business, and the stock market was held up surprisingly.

#### IRON AND STEEL.

With such business as the great steel companies are doing it is not strange that their stocks are firmly held. There have been heavy sales of rails deliverable next year, 333 being fixed as the price, after consultation, and about 30,000 tons fairly divided between Eastern and Western works were sold. The great protection the great companies bought others in large quantities.

## NORTH ATLANTIC SQUADRON HERE

Passed in the Capes at 7:30 O'clock Last Evening.

The North Atlantic Squadron, commanded by Rear Admiral W. T. Sampson, is now lying at anchor in Hampton Roads. The formidable men-o-war, which under the gallant Schley sunk Cervera's Spanish fleet, steamed inside the Capes at 7:30 o'clock last night.

Just what vessels comprise that portion of the squadron which dropped anchor in the Roads last night is not known. The flagship New York and the Nashville have been detached for duty in the Philippines. The Nashville sailed yesterday for San Francisco and the others may follow and not come to Old Point.

The grand ball to be given in honor of the officers of the fleet at the Chamberlain and Hygeia Hotels at Old Point on the evening of the 11th, will be the crowning social event in connection with the squadron's visit. By private subscription a large sum of money has been raised to make the ball a notable and memorable event.

## THE COURTS

Judge Hanckel Charters the South Norfolk Improvement Company.

Authority to Improve Real Estate and Operate Factories—Suit For Divorce—Transfers of Property—What Happened in Police Court.

Judge Hanckel yesterday granted a charter to the South Norfolk Belt Line Improvement Company, with an authorized capital of from \$5,000 to \$30,000. The purposes of the company are to purchase and improve real estate by erecting buildings, factories, wharves, and other structures thereon, and to operate factories. The amount of real estate to be purchased is not to exceed 500 acres in Norfolk county or five acres in the city at one time.

The officers of the company are: D. Lowenberg, Norfolk, President; R. W. Brooks, Portsmouth, Vice President and General Manager; William A. Wrenn, Norfolk, Secretary and Treasurer. The above with Jacob Hecht, Barton Myers and Walter H. Doyle, of Norfolk, compose the Board of Directors.

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#### HUNDREDS OF MULES.

LOST IN TRANSIT TO THE PHILIPPINES.

(By Telegraph to Virginian-Pilot.) Manila, Oct. 6.—4:40 p. m.—The United States transport Siam, which left San Francisco August 19 with upwards of 330 valuable mules, the coming of which had been anxiously awaited, as mules are in great demand here in the campaign, arrived this morning and reported that all but nineteen of the animals had been lost in two severe typhoons, under peculiarly distressing conditions.

The Siam, which left Honolulu thirty-one days ago, encountered the typhoon early this week. One lasted forty hours. Most of the forage which was on deck was swept overboard, all the rolled mules, and the steamers rolled tremendously, the trough of the sea, although the officers made every effort to bring her about.

The mules were hurled from side to side and frightfully mangled and dismembered. Their legs and necks were broken and the wretched animals fell in such a confused mass that the attendants were unable to relieve them.

In the meantime the deck load was washed off, the ship lightened and the rolling moderated. When the storm abated the injured animals were killed, and their carcasses thrown overboard. When the Siam arrived her propeller was high out of the water and wrecks of her boats were hanging from the davits.

#### POWHATAN MURDER TRIAL.

COURT HAS TROUBLE IN SECURING JURY.

(Special to Virginian-Pilot.) Richmond, Va., Oct. 6.—Sixty-one additional veniremen were called in Powhatan County Court this morning from which to secure the balance of the jury needed for trial of Wm. G. Pilkinton for killing State Senator Wm. M. Flanagan. Only six more jurors were secured, making nine in all. Judge Miller adjourned court until Tuesday, and ordered a venire facias of forty men to be brought from the city of Lynchburg from which to select the remaining seven.

#### The Nashville Sails For Manila.

(By Telegraph to Virginian-Pilot.) Washington, Oct. 6.—Commander Rodgers, of the Nashville, has lost no time in obeying the orders of the Navy Department to start for Manila. A cablegram received from San Domingo to-day announcing that he had already sailed for San Juan, P. I., where he will stop and replenish his coal supply. The Nashville should make the trip to Manila by way of Suez in about seven weeks, or perhaps two months.

#### "Good Beginnings"

Make Good Endings.

You are making a good beginning when you commence to take Hood's Sarsaparilla for any trouble of your blood, stomach, kidneys or liver. Persistently taken, this great medicine will bring you the good ending of perfect health, strength and vigor.

### Hood's Sarsaparilla

## HOME FOR DEWEY.

WILL SELECT HOME ALREADY CONSTRUCTED.

(By Telegraph to Virginian-Pilot.) Washington, Oct. 6.—Admiral Dewey has selected to accept a house in Washington already constructed instead of having one built for his occupation. In accordance with the invitation of the committee which has had in charge the Dewey home fund he called at the office of Acting Secretary Allen, in the Navy Department, at 11 o'clock to-day to indicate his preferences in the matter of a residence. There were present besides Mr. Allen, Assistant Secretary Vanderlip, Assistant Postmaster General Heath and General Corbin. The Admiral was officially informed of the purpose of the people of the United States in presenting him with a home in Washington. He frankly expressed his gratification at the tender, which he immediately accepted. He said had the proposed home been the gift of a few wealthy men he should feel indisposed to accept it. But he noted that the house was donated by subscribers, indicating that the home was really the gift of the American people, and as such he would accept it with as much pleasure as he had the sword bestowed upon him by Congress.

#### CHOICE OF LOCATION.

Then the talk turned upon the location of the residence and the Admiral showed a decided preference for the section in which he has his headquarters during his former details of duty in Washington. He wished the house to be located in the northwest section, somewhere west of Sixteenth street, and not too far north, thus indicating the neighborhood of his former residence and the clubs where he had spent a good deal of his leisure time. First of all, he wanted the house at the earliest possible moment, so that he might "go in and hang up his hat at once," as he put it. Of course, that precluded the idea of erecting a house to meet his special needs. He expressed his ideas as to the character of the house he desired, and asked that the house be modest enough in appointments and cost to permit of the retention of a sufficient sum of money from the purchase fund to defray the expense of furnishing.

#### WILL GO TO NEW YORK.

The committee listened attentively to all of these wishes and saw no reason why each and all could not be gratified. The Admiral is going to New York and will stop over if he can to see the yacht race, and will then go to Shelburne farms, Vermont. He expects to return to Washington in the course of a week. Meanwhile, the house committee, having invited written proposals of properties, will go through the list carefully and hope to be able to present to the Admiral on his return as many as half a dozen valuable houses from which he may make a personal selection. The fund at the disposal of the committee now amounts to about \$60,000, and it is earnestly desired that this sum may be substantially increased during the time remaining before the purchase.

#### SIGHT RESTORED.

WHAT X-RAYS DID FOR A CHILD.

(By Telegraph to Virginian-Pilot.) Chicago, Oct. 6.—Harriet Heilbuth, 5 years old, and for two years blind and a paralytic, has had her sight and the use of her limbs restored through the agency of the X-rays.

Two years ago the child, while playing, fell from a porch to the sidewalk, a distance of sixteen feet, striking on her head. The fall left her totally blind and with her right side paralyzed. A few days ago the X-rays were applied and revealed a tumor the size of an egg pressing the brain. The skull was trepanned directly over the cyst, as shown in the skilgraph, and the tumor removed. The child was able to move her limbs on recovering consciousness and is now gradually recovering her sight.

## The Cruel Knife!

It is absolutely useless to expect a surgical operation to cure cancer, or any other blood disease. The cruelty of such treatment is illustrated in the alarming number of deaths which result from it. The disease is in the blood, and hence cannot be cut out. Nine times out of ten the surgeon's knife only hastens death.

My son had a most malignant cancer, for which the doctors said an operation was the only hope. The operation was a severe one, as it was necessary to cut down to the jaw bone and scrape it. Before the cancer returned, and he began to grow rapidly. We gave him many remedies without result. Finally, we decided to try S. S. S. (Swift's Specific). He began to improve. After twenty bottles he had taken the cancer disappeared entirely, and he was cured. The cure was a permanent one, for he is now seventeen years old, and has never had a sign of the dreadful disease to return.

279 Snodgrass St., Dallas, Texas.

Absolutely the only hope for Cancer is Swift's Specific.

## S.S.S. For Blood

as it is the only remedy which goes to the very bottom of the blood and cures out every trace of the disease. S. S. S. is guaranteed purely vegetable, and contains no poison, mercury, or other mineral.

Books on Cancer will be mailed free to any address by the Swift Specific Co., Atlanta, Ga.

## PRESERVING KETTLES...

I have a full assortment of Porcelain Lined, Blue and White Lava, Enamelled and Granite Preserving Kettles, all at lowest prices. I have one Man's and one Ladies' Bicycle, new, at less than cost.

### J. P. MALBON, Hardware

164 Church Street, where you can see the very latest productions in Millinery Goods.

## MILLINERY!

Our second display of Trimmed Hats and Bonnets will take place on TUESDAY AND WEDNESDAY, OCTOBER 3D AND 4TH, and will receive new importations every week during the season.

Respectfully,

Mrs. J. S. B. ANDERSON,

CHURCH ST.